

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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UNITED STATES OF AMERICA	§	
	§	
v.	§	
	§	
HOLY LAND FOUNDATION FOR	§	
RELIEF AND DEVELOPMENT (1)	§	
also known as “HLF”	§	NO. 3:04-CR-240-G
SHUKRI ABU BAKER (2)	§	
MOHAMMAD EL-MEZAIN (3)	§	
GHASSAN ELASHI (4)	§	
MUFID ABDULQADER (7)	§	
ABDULRAHMAN ODEH (8)	§	

**DEFENDANTS’ JOINT MOTION IN LIMINE TO PRECLUDE THE  
GOVERNMENT FROM QUESTIONING FORMER COUNSEL ABOUT  
PRIVILEGED COMMUNICATIONS**

SHUKRI ABU BAKER, MOHAMMAD EL-MEZAIN, GHASSAN ELASHI,  
MUFID ABDULQADER AND ABDULRAHMAN ODEH, Defendants in the above  
entitled and numbered cause, through their undersigned attorneys, respectfully move the  
Court to preclude the government from questioning attorney John Bryant about  
privileged communications.

**DISCUSSION**

Defendants expect to call attorney John Bryant to testify regarding the efforts of  
the Holy Land Foundation (HLF) to obtain assistance from the government in identifying  
organizations and individuals the government believed to be associated with Hamas, as  
well as HLF’s efforts to satisfy the United States government that its activities were  
consistent with United States law and policy. HLF retained Mr. Bryant to represent it in  
these efforts, and he attended meetings between HLF and government representatives

where non-privileged communications occurred. These meetings are directly relevant to Defendants' knowledge and intent in raising money and sending funds to organizations identified in the Indictment.

HLF has not waived the attorney-client privilege. Indeed, as noted before the trial's commencement, HLF appears no longer to have a representative who can waive the privilege and HLF is not represented by counsel at this trial. Defendants will not call Mr. Bryant for the purpose of asserting an "advice of counsel" defense. Defendants do not intend to elicit testimony from Mr. Bryant about his privileged communications with HLF or its employees. Defendants will only question Mr. Bryant regarding events he personally observed that did not involve confidential communications about legal matters. Therefore, the government should be precluded from questioning Mr. Bryant about privileged communications between himself and HLF or its employees. *See, e.g., In re United States*, 878 F.2d 153,158 (5th Cir. 1989) (holding there was no danger that by calling their former attorney at hearing on motion to dismiss or suppress defendants would waive their privilege as to client-attorney confidential communications); *see also, Lorenz v. Valley Forge Ins. Co.*, 815 F.2d 1095, 1099 (7th Cir. 1987) ("The answers given [by the attorney to deposition questions] pertain only to the settlement discussions themselves, and McInerney's authority to offer settlement. As we have already noted, offers to settle are not protected by the attorney-client privilege and disclosure of such offers does not waive the protections of the privilege.").

**CONCLUSION**

WHEREFORE, Defendants respectfully move the Court to preclude the government from cross-examining Mr. Bryant about attorney-client privileged communications.

Respectfully submitted,

/s/ Theresa M. Duncan  
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CERTIFICATE OF CONFERENCE

I certify that counsel has previously discussed the relief requested in the instant motion with Mr. Barry Jonas, Assistant United States Attorney and he is opposed to this relief.

/s/ Theresa M. Duncan  
THERESA M. DUNCAN

CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2007, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/ Theresa M. Duncan  
THERESA M. DUNCAN